

1 Tyler J. Woods, Bar No. 232464
2 twoods@trialnewport.com
3 NEWPORT TRIAL GROUP
4 4100 Newport Place, Suite 800
5 Newport Beach, CA 92660
6 Tel: (949) 706-6464
7 Fax: (949) 706-6469

8 *Attorneys for Plaintiff Shipping and Transit, LLC*

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 SHIPPING AND TRANSIT LLC, a Florida
12 Limited Liability Corporation,

13 Plaintiff,

14 vs.

15 J BRAND, INC., a California Corporation;
16 and DOES 1 through 10, Inclusive,

17 Defendants.
18
19

Case No. 2:15-cv-9533

**COMPLAINT FOR PATENT
INFRINGEMENT**

JURY TRIAL DEMANDED

Complaint Filed: N/A

Trial Date: N/A

1 **COMPLAINT FOR PATENT INFRINGEMENT**

2 For its Complaint, Plaintiff Shipping and Transit, LLC (“Plaintiff”), by and
3 through the undersigned counsel, alleges as follows:

4 **THE PARTIES**

5 1. Plaintiff is a company organized and existing under the laws of Florida and
6 having an address at 711 SW 24th, Boynton Beach, Florida 33435.

7 2. On information and belief, defendant J Brand, Inc. (“Defendant”) is a
8 corporation existing under the laws of California.

9 3. The true names and capacities of the Defendants sued herein as DOES 1
10 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such
11 Defendants by fictitious names. Each of the Defendants designated herein as a DOE is
12 legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of
13 Court to amend this Complaint to reflect the true names and capacities of the DOE
14 Defendants when such identities become known.

15 **JURISDICTION AND VENUE**

16 4. This is a suit for patent infringement arising under the patent laws of the
17 United States, Title 35 of the United States Code § 1 *et seq.*

18 5. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and
19 1338(a).

20 6. Venue is proper in this judicial district under 28 U.S.C. §§ 1391(c) and
21 1400(b).

22 7. Upon information and belief, Defendant conducts substantial business in
23 this forum, directly or through intermediaries, including: (i) at least a portion of the
24 infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in
25 other persistent courses of conduct and/or deriving substantial revenue from goods and
26 services provided to individuals in this forum.

27 ///

28 ///

THE PATENT-IN-SUIT

8. On July 15, 2008, United States Patent No. 7,400,970 (“the ’970 Patent”), entitled, “System and method for an advance notification system for monitoring and reporting proximity of a vehicle” was duly and legally issued by the United States Patent and Trademark Office. A true and correct copy of the ’970 Patent is attached as Exhibit A to this complaint.

9. Plaintiff is the assignee and owner of the right, title and interest in and to the ’970 Patent including the right to assert all causes of action arising under said patents and the right to any remedies for infringement of them.

COUNT I – INFRINGEMENT OF U.S. PATENT NO. 7,400,970

10. Plaintiff repeats and realleges the allegations of paragraphs 1 through 9 as if fully set forth herein.

11. Without license or authorization and in violation of 35 U.S.C. § 271(a), Defendant has infringed and continues to infringe the ’970 Patent by making, using, offering for sale and/or selling within this district and elsewhere in the United States a computer based notification system that enables communication with a user that is designed to receive delivery of a package and provides a means for requesting entry by user of a package identification number.

12. Specifically, Defendant’s ship notice/manifest, sometimes referred to as the Advanced Shipment Notice (ASN), or the 856 EDI document, is generated when a user at a computer system elects to purchase an item via Defendant’s website and enters an email address as part of the purchase process. Defendant explains by purchasing they will be provided “order confirmation” and more importantly “shipment confirmation” by selecting to purchase from their website. When a user selects a method of shipping when purchasing an item from Defendant’s website, a user necessarily is required to elect a shipping method that allows tracking. Once this election is made, and as the order is processed, shipment confirmations are sent based on a tracking input when the package starts its route (likely pick-up, placed on conveyer

belt and/or scanned out to loading dock/out of warehouse, etc.) to its destination (delivery address). This process is evidenced on Defendant's Shipping Information web page:

ENJOY FREE SHIPPING & EASY RETURNS. ?

J BRAND NEW ARRIVALS WOMEN MEN J LIST COLLABORATIONS GET CONNECTED GIFTS

SHIPPING INFORMATION

FREE GROUND SHIPPING. ALWAYS.

No minimum spend required. Valid in the 48 Contiguous United States ONLY. If you choose UPS 2 day shipping or UPS Standard Overnight shipping, regular charges will apply.

...

ORDER STATUS/ORDER TRACKING

Once you have placed an order, you can check on its status at any time. For domestic order tracking, head over to the order tracking page inside My Account. For international orders, you will need to click "International Orders" from the order tracking page. Once an order has shipped, you will receive an email containing your tracking information.

TIMING OF ORDERS TO BE SHIPPED

If your order is placed Monday through Thursday, it will be shipped the same day or the next business day. If your order is placed on Friday prior to noon PST, the order may be shipped the same day; if not, it will be shipped on Monday. You will receive an email confirmation once your order has shipped. Prior to checking out, you will see the estimated arrival date, depending on the type of shipping you select.

SHIPPING ORDER CONFIRMATION

When your order has shipped, we will send you an email with your tracking number and a link to where you can track your order online.

DIFFERENCES BETWEEN "ORDER DATE" AND "SHIP DATE"

On most websites, "Order Date" and "Ship Date" are not the same. For example, if you place an order on Friday at noon PST, your package will not ship until after the weekend. When you place an order, you'll see an "Estimated Ship Date" on the order page. If you opted for 2 Day Shipping, you will receive your package 2 days after it ships. In some cases this does not necessarily mean 2 days after you place the order. Although most orders are shipped the same or next day, please take weekends and holidays into account when considering the shipping date.

1 13. Plaintiff is entitled to recover from Defendant the damages sustained by
2 Plaintiff as a result of Defendant's infringement of the '970 Patent in an amount subject
3 to proof at trial, which, by law, cannot be less than a reasonable royalty, together with
4 interest and costs as fixed by this Court under 35 U.S.C. § 284.

5 14. Prior to the filing of this Complaint, Plaintiff, by letter dated November 2,
6 2015, informed Defendant of Defendant's infringement of the '970 Patent.

7 15. Thus, Defendant has been on notice of the '970 Patent since at least the
8 date it received Plaintiff's letter dated November 2, 2015.

9 16. Upon information and belief, Defendant has not altered its infringing
10 conduct after receiving Plaintiff's letter dated November 2, 2015.

11 17. Upon information and belief, Defendant's continued infringement despite
12 its knowledge of the '970 Patent and the accusations of infringement has been
13 objectively reckless and willful.

14 15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff requests that this Court enter judgment against
17 Defendant as follows:

18 A. An adjudication that Defendant has infringed the '970 patent;

19 B. An award of damages to be paid by Defendant adequate to compensate
20 Plaintiff for Defendant's past infringement of the '970 patents and any continuing or
21 future infringement through the date such judgment is entered, including interest, costs,
22 expenses and an accounting of all infringing acts including, but not limited to, those
23 acts not presented at trial;

24 C. A declaration that this case is exceptional under 35 U.S.C. § 285, and an
25 award of Plaintiff's reasonable attorneys' fees;

26 D. To the extent Defendant's conduct subsequent to the date of its notice of
27 the '970 patent is found to be objectively reckless, enhanced damages pursuant to 35
28 U.S.C. § 284 for its willful infringement of the '970 patent; and

1 E. An award to Plaintiff of such further relief at law or in equity as the Court
2 deems just and proper.

3
4 Respectfully submitted this 4th day of November, 2015

5 NEWPORT TRIAL GROUP

6
7 By: /s/ Tyler J. Woods
8 Tyler J. Woods
9 Attorney for Plaintiff
10 Shipping and Transit, LLC
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable pursuant to Federal Rule of Civil Procedure 38.

Respectfully submitted this 4th day of November, 2015

NEWPORT TRIAL GROUP

By: /s/ Tyler J. Woods

Tyler J. Woods
Attorney for Plaintiff
Shipping and Transit, LLC